



DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS-2022-0016]

Notice of Intent to Prepare an Environmental Impact Statement for the North Branch Park River Watershed Plan, North Dakota

AGENCY: Natural Resources Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Intent (NOI) to Prepare an Environmental Impact Statement (EIS).

SUMMARY: The Natural Resources Conservation Service (NRCS) North Dakota State Office, announces its intent to prepare an EIS for the North Branch Park River Watershed located within Pembina, Walsh, and Cavalier Counties, North Dakota. NRCS will examine alternative solutions through the EIS process to provide flood damage reduction and watershed protection. NRCS is requesting comments to identify significant issues, potential alternatives, information, and analyses relevant to the Proposed Action from all interested individuals, Federal and State Agencies and Tribes.

DATES: We will consider comments that we receive by **[Insert date within 30 days after date of publication in the FEDERAL REGISTER]**. Comments received after the 30-day comment period will be considered to the extent possible.

ADDRESSES: We invite you to submit comments in response to this notice. You may submit your comments through one of the methods below:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov> and search for docket ID NRCS-2022-0016. Follow the online instructions for submitting comments; or
- *Mail or Hand Delivery:* LuAnn Kemp, Park River Joint Water Resource District, National Resources Conservation Service, 308 Courthouse Drive #5, Cavalier, ND, 58220. In your comment, specify the docket ID NRCS-2022-02016.

All comments received will be posted and made publicly available on www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Christi Fisher; telephone: (701) 530–2091; email: christi.fisher@usda.gov. Persons with disabilities who require alternative means of communication should contact USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Purpose and Need

The purposes of the proposed action are watershed protection and flood damage reduction. Watershed protection goals consist of reducing downstream nutrient loads, particularly phosphorus, and increasing quantity and quality of critical fish and wildlife habitats. The Watershed Project Plan is authorized under the authority of the Watershed Protection (XE “Watershed Protection) and Flood Prevention Act of 1954 (Pub. L. 83-566) as amended and the Regional Conservation Partnership Program Project (16 U.S.C. Chapter 58, Subchapter VIII). This action is needed because the North Branch Park River Watershed incurs \$1,733,000 in average annual flood damage as a result of 4,485 acres of cropland inundation and damage to roads, buildings, and other property. The 100-year flood inundates 136 structures, including the community of Crystal, ND. The watershed annually contributes 36,412 pounds of phosphorus and 197,533 pounds of nitrogen to the Red River. for which United States agreed to nutrient objectives at the international border have not been achieved. Historic loss of wetland and upland habitat within the Red River Basin also threatens multiple species.

Preliminary Proposed Action and Alternatives

NRCS will provide technical and financial assistance for the proposed project through the NRCS Watershed Protection and Flood Prevention Program. The EIS is expected to

evaluate 2 alternatives: one action alternative or no action alternative. The alternatives we intend to carry forward to final analysis are:

Alternative 1 – No Action: No federal action would be taken in the North Branch Park River Watershed and implementation of significant flood damage reduction or watershed protection projects is not expected to occur. The frequency and magnitude of flood damages in the watershed would remain at the current level, with average crop losses of \$876,300 annually due to flooding. Flood damage to a total of 136 structures, including homes, schools, and businesses in the community of Crystal, ND, will continue to generate average losses of \$770,800 annually. Road maintenance associated with overtopping during floods will continue to generate average costs of \$79,500 annually. The watershed will continue to contribute 36,412 pounds of phosphorus and 197,533 pounds of nitrogen to the Park River as well as the Red River and Lake Winnipeg. Wetlands and wildlife habitat will remain unchanged, barring a significant change in federal conservation programs.

Alternative 2 – Cart Creek Site 1: The preliminary proposed alternative under consideration at Cart Creek Site 1 is a multi-purpose, off-channel, dry dam (XE “Preferred Alternative”) with a drainage area of 33.8 square miles, embankment length of 2.6 miles, maximum height of 17.3 feet, and average height of 9.7 feet. The dam would provide 2,593 acre-feet of temporary flood storage at the auxiliary spillway crest elevation and inundate 466-acres for a duration of less than a week during flood events. A diversion weir would be constructed in Cart Creek and existing road ditches would be enlarged to route flows above a 2-year flood flow to the dam from Cart Creek. Surface water runoff and existing road ditches south of Cart Creek and west of the dam would be re-routed into the dry dam site via construction of new inlet structures and culverts designed to recreate natural sheet flow conditions. (XE “Flood Prevention”) Within the temporary flood pool, 134 acres of shallow retention cells would be constructed and

managed via water control and biomass harvest for removal of incoming nutrient loads. Water would be held in those cells via closed control structures from spring through early fall, to allow growing vegetation to uptake dissolved phosphorus. Water would be drained through control structures and via a pumped subsurface drainage system to allow vegetation to be cut, baled, and removed from the site prior to the first frost in 2 out of each 3 years. The alternative would also result in restoration of 284 acres of wetlands, enhancement of 16 acres of existing wetlands, and enhancement of 52 acres of uplands which would be managed for high quality wildlife habitat via grazing as needed.

The two alternatives described above will be evaluated against each other in the EIS.

Summary of Expected Impacts

An NRCS evaluation of this federally assisted action indicates that the proposed alternative may have a significant local, regional, national, or international impact on the environment. Hydrologic impacts include peak flow reductions of 64 percent and 66 percent of the 10- and 100-year recurrence interval flood events immediately downstream of the retention site, and 20 percent and 28 percent of the 10- and 100-year recurrence interval flood events at the downstream community of Crystal, ND. Immediately downstream of the retention site, average annual loads of total phosphorus, total nitrogen, and total suspended solids are reduced by 60 percent, 66 percent, and 38 percent respectively. The proposed alternative would result in a total loss of 5.7 acres of wetlands through fill placement and excavation, which will be mitigated for via onsite wetland restoration. The project generates a net restoration of 284 acres of wetlands (total of 289.7 acres) and enhances 16 acres of existing wetlands as a result of restored hydrology and vegetative communities, enhancement of 18 acres of existing wetlands that are currently cropped, and enhancement of 52 acres upland wildlife habitat for the benefit of migratory birds and other wildlife species. Short term negative impacts during

construction are anticipated to be local only, and may occur in relation to soils, vegetation, noise, and traffic.

Anticipated Permits and Authorizations

The following permits and other authorizations are anticipated to be required:

- *CWA Section 404 permit.* Implementation of the proposed federal action would require a Clean Water Act (CWA) Section 404 permit from the U.S. Army Corps of Engineers, which is a cooperating federal agency on the planning effort. Consultation is ongoing and no significant challenges are anticipated given the overall environmental benefits of the project.
- *CWA Section 401 permit.* The project would also require water quality certification under Section 401 of the CWA and permitting under Section 402 of the CWA (National Pollutant Discharge Elimination Permit), both of which would be issued by the ND Department of Environmental Quality, a cooperating state agency on the planning effort. Consultation is ongoing and no significant challenges are anticipated given the overall environmental benefits of the project and the fact this is an off-channel retention structure.
- *Permit to Construct or Modify a Dam.* The project will require authorization from the North Dakota Department of Water Resources (ND DWR) for construction of a dam. ND DWR is a cooperating state agency on the plan and is assisting in funding for the project.
- *Water Appropriation Permit.* The project may require a conditional water use permit from ND DWR for construction of a dam. ND DWR is a cooperating state agency on the plan and is assisting in funding for the project.
- *Floodplain Permit.* The project will require a floodplain development permit from Pembina County. Pembina County is a cooperating local agency on the project.

- *NHPA Section 106 Consultation.* Consultation with Tribal Nations and interested parties is being conducted as required by the National Historic Preservation Act of 1966.

Schedule of Decision-Making Process

A draft (DEIS) will be prepared and circulated for review and comment by agencies and the public for at least 45 days per 40 CFR 1503.1, 1502.2, 1506.11, 1502.17, and 7 CFR 650.13. The DEIS is anticipated to be published in the Federal Register approximately 6 months after publication of this NOI. A final EIS is anticipated to be published within 6 months of completion of the public comment period for the DEIS. NRCS will then decide whether to implement one of the alternatives as evaluated in the EIS. A Record of Decision will be completed after the required 30-day waiting period and will be publicly available. The responsible federal official for the NRCS is Mary Podoll, North Dakota State Conservationist.

Public Scoping Process

Public scoping meetings will be held at the Cart Creek Site 1 Project to further develop the scope of the DEIS. A preliminary scoping meeting was held on February 17, 2016, in Mountain, ND. An additional scoping meeting will be held after the NOI is published. Comments received for both meetings, including names and addresses of those who comment, will be part of the public record. The date, time, and location for the second meeting will be provided on the ND NRCS website, the Pembina Water Resource District website, and published in the Cavalier Chronicle.

NRCS will coordinate the scoping process as provided in 36 CFR 800.2(d)(3) and 800.8 (54 U.S.C. 306108) to help fulfill the National Historic Preservation Act (NHPA), as amended, review process.

Identification of Potential Alternatives, Information, and Analyses

NRCS invites agencies, tribes, and individuals who have special expertise, legal jurisdiction, or interest in the Cart Creek Site 1 Project to provide comments concerning the scope of the analysis and identification of potential alternatives, information, and analyses relevant to the Proposed Action.

Authorities

This document is published in line with the National Environmental Policy Act (NEPA) regulations regarding publication of a notice of intent to issue an environmental impact statement (40 CFR 1501.9(d)). The EIS will be prepared to evaluate potential environmental impacts as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA, the Council on Environmental Quality regulations (40 CFR parts 1500–1508) and NRCS regulations that implement NEPA in 7 CFR part 650.

Watershed planning is authorized under the Watershed Protection and Flood Prevention Act of 1954, as amended, (Pub. L. 83–566) and the Flood Control Act of 1944 (Pub. L. 78–534).

Federal Assistance Program

The titles and numbers of the Federal Domestic Assistance Programs found in the Catalog of Federal Domestic Assistance to which Notice of Funding Availability applies is 10.904 Watershed Protection and Flood Prevention.

Executive Order 12372

Executive Order 12372, “Intergovernmental Review of Federal Programs,” requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. This program is subject to

the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

USDA Non-Discrimination Policy

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To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <https://www.usda.gov/oascr/how-to-file-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410 or email: OAC@usda.gov. USDA is an equal opportunity provider, employer, and lender.

Mary Podoll,
North Dakota State Conservationist,
Natural Resources Conservation Service.

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